

SENATE No. 2110

Senate, January 21, 2016 -- Text of the Senate Bill to prohibit the use of mobile telephones while operating a motor vehicle (Senate, No. 2110) (being the text of Senate, No. 2093, printed as amended)

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to prohibit the use of mobile telephones while operating a motor vehicle.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section
2 15XXXXX the following 2 sections:-

3 Section 15YYYYY. The governor shall annually issue a proclamation setting apart the
4 second week of March as Massachusetts Sleep Awareness Week and the Sunday at the beginning
5 of daylight saving time as Massachusetts Sleep Awareness Day and recommending that the week
6 be properly observed as a period of special attention to the problems of sleep deprivation and
7 fatigue including, but not limited to: impaired reaction time, judgment and vision; problems with
8 information processing and short-term memory; decreased performance, vigilance and
9 motivation; increased moodiness and aggressive behaviors; and, especially, the dangers of
10 driving under the influence of sleep deprivation or fatigue. To this end, the agencies of the
11 commonwealth and private organizations, especially those interested in education, transportation,
12 public health and public safety, shall adopt policies and programs consistent with the goals of: (i)
13 increasing public awareness about sleep, sleep disorders and the consequences of sleep

14 deprivation; (ii) promoting science-based public policies that improve the sleep health of the
15 nation; (iii) advancing basic, clinical, applied and population-based research; and (iv) promoting
16 recognition of and access to care for all individuals with sleep disorders.

17 Section 15ZZZZZ. The governor shall annually issue a proclamation setting apart the
18 second week of November as Massachusetts Drowsy Driving Prevention Week and
19 recommending that the week be properly observed as a period of special attention to the need for
20 public awareness and action relative to the problems of drowsy driving and driver fatigue. For
21 the purposes of this section, “drowsy driving” or “driver fatigue” shall mean driving while being
22 sleepy, tired, drowsy or exhausted.

23 SECTION 2. Section 1 of chapter 90 of the General Laws, as appearing in the 2014
24 Official Edition, is hereby amended by inserting after the definition of “Hands-free mobile
25 telephone” the following definition:-

26 “Hands-free mode”, operation of a mobile electronic device that has an internal feature or
27 function or that is equipped with an attachment or addition, whether or not permanently a part of
28 the mobile electronic device, by which a user engages in a voice communication without the use
29 of either hand; provided, however, that it may be necessary to press a single button to activate,
30 deactivate or initiate the hands-free feature.

31 SECTION 3. Section 7B of said chapter 90, as so appearing, is hereby amended by
32 striking out, in line 172, the word “telephone” and inserting in place thereof the following
33 words:- electronic device.

SECTION 4. Said section 7B of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 177 and 178, the words "is necessary for the personal safety of a passenger or to otherwise ensure the safety of the passengers; and (d)" and inserting in place thereof the following words:- , fire department or other emergency service is necessary for the personal safety of a passenger or to otherwise ensure the safety of the passengers; (d) that police intervention, fire department or other emergency service is necessary for the personal safety of a pedestrian in or near the roadway; (e) that police intervention is necessary due to a motor vehicle being operated erratically so as to pose a threat to the safety of travelers on the roadway or to pedestrians; or (f).

SECTION 5. Section 12A of said chapter 90, as so appearing, is hereby amended by striking out, in line 23, the word "not".

SECTION 6. Section 13 of said chapter 90, as so appearing, is hereby amended by striking out, in line 6, the word "telephone" and inserting in place thereof the following words:- electronic device.

SECTION 7. Said chapter 90 is hereby amended by striking out section 13B and inserting in place thereof the following section:-

Section 13B. (a) No operator of a motor vehicle shall use a mobile electronic device, unless the person is using the device in a hands-free mode, and shall not touch or hold in either hand the mobile electronic device while operating a motor vehicle except if it is necessary to press a single button to activate, deactivate or initiate a voice communication. No operator of a motor vehicle shall use a mobile electronic device or other device capable of accessing the internet to compose, send or read an electronic message, to access social media, to review or

input any information on a mobile electronic device or to manually input information into a global positioning system or navigation device while operating a vehicle, except if it is necessary to press a single button to activate, deactivate or initiate a voice command to the global positioning system or navigation device. An operator of a motor vehicle who holds a mobile electronic device to or in the immediate proximity of the operator's head while operating a motor vehicle shall be presumed to be in violation of this section. For the purposes of this section, an operator shall not be considered to be operating a motor vehicle if the vehicle is stationary and not located in any part of a roadway intended for travel by a motor vehicle or bicycle.

(b) Whoever violates this section shall be punished by a fine of \$100 for a first offense, by a fine of \$250 for a second offense and by a fine of \$500 for a third or subsequent offense; provided, however, that the fine for a second, third or subsequent offense of an operator who completes a program selected by the registrar of motor vehicles encouraging a change in driver behavior and attitude about distracted driving shall be reduced in an amount equal to the cost to the operator to enroll in that program. A third or subsequent violation of this section shall be considered a moving violation for purposes of the safe driver insurance plan under section 113B of chapter 175. In addition to the fine, an operator who commits a second, third or subsequent offense shall also be required to complete a program selected by the registrar of motor vehicles that encourages a change in driver behavior and attitude about distracted driving. This subsection shall not be construed as authorizing the seizure or forfeiture of a hand-held mobile telephone or a mobile electronic device.

(c) It shall be an affirmative defense for an operator to produce documentary or other evidence that the use of a mobile electronic device that is the basis of the alleged violation was made for emergency purposes. For the purpose of this section, "emergency purposes" shall mean

that the operator used the mobile electronic device to communicate with another person to report:
(i) that the motor vehicle was disabled; (ii) that medical attention or assistance was required; (iii)
that police intervention, fire department or other emergency service was necessary for the
personal safety of the operator or a passenger; (iv) that a disabled vehicle or an accident was
present in the roadway; (v) that police intervention, fire department or other emergency service
was necessary for the personal safety of a pedestrian in or near the roadway; or (vi) that police
intervention was necessary due to a motor vehicle being operated erratically so as to pose a threat
to the safety of travelers on the roadway or to pedestrians.

(d) This section shall not apply to public safety personnel or emergency first responders
using a mobile electronic device in the course of their official duty.

SECTION 8. Chapter 155 of the acts of 2010, is hereby amended by striking out section
14 and inserting in place thereof the following section:-

Section 14. The registrar of motor vehicles, in cooperation with the highway safety
division, shall develop and implement an annual public awareness campaign for both junior and
adult operators which shall include, but not be limited to, the dangers and consequences of
distracted driving, information on the restrictions of mobile telephone and mobile electronic
device use while operating a motor vehicle under sections 8M, 12A, 13 and 13B of chapter 90 of
the General Laws and information on the fines and punishments which may be imposed for
violations of said chapter 90. The registrar of motor vehicles shall include information on the
hazards of distracted driving in each revised publication of the driver's manual.

SECTION 9. Notwithstanding any general or special law to the contrary, the division of
insurance shall conduct a study on the feasibility of reducing the amount of time unsafe driver

101 points remain on a driver's record. The report along with recommendations shall be submitted to
102 the clerks of the house of representatives and senate, the joint committee on transportation and
103 the house and senate committees on ways and means by not later than December 31, 2016.

104 SECTION 10. The registry of motor vehicles may promulgate regulations to implement
105 section 13B of chapter 90 of the General Laws and to further define "mobile electronic device"
106 under section 1 of said chapter 90.